IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

OURPET'S COMPANY, Plaintiff(s), v. VAN NESS PLASTICS MOLDING CO., INC. Defendant(s).	)	CASE NO.: 1:15- CV-2077 JUDGE: PATRICIA A. GAUGHAN

ANSWER TO THE COMPLAINT AND JURY DEMAND

Defendant Van Ness Plastics Molding Co. Inc. ("Van Ness") answers the Complaint of Plaintiff OurPet's Company as follows:

Answer to Paragraph No. 1

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 1 and therefore denies the same.

Answer to Paragraph No. 2

Defendant Van Ness admits it is a business entity located in New Jersey. Defendant Van Ness denies the remaining allegations of Paragraph 2.

Answer to Paragraph No. 3

Defendant Van Ness admits that this is an action for patent infringement and that the claims are alleged to arise under 35 USC § 281. Defendant Van Ness also admits that this Court has federal subject matter jurisdiction. Defendant Van Ness denies the remaining allegations of Paragraph 3.

Answer to Paragraph No. 4

Defendant Van Ness admits the allegations of Paragraph 4.

Answer to Paragraph No. 5

Defendant Van Ness admits the allegations of Paragraph 5.

Answer to Paragraph No. 6

Defendant Van Ness admits that the Ohio State Long Arm Statute is as stated. Van Ness denies the remaining allegations of Paragraph No. 6.

Answer to Paragraph No. 7

Defendant Van Ness admits that the Ohio State Long Arm Statute is as stated. Van Ness denies the remaining allegations of Paragraph No. 7.

Answer to Paragraph No. 8

Defendant Van Ness admits that it is subject to personal jurisdiction in this district. Defendant Van Ness denies the remaining allegations of Paragraph No. 8.

Answer to Paragraph No. 9

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 9 and therefore denies the same.

Answer to Paragraph No. 10

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 10 and therefore denies the same.

Answer to Paragraph No. 11

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 11 and therefore denies the same.

Answer to Paragraph No. 12

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 12 and therefore denies the same.

Answer to Paragraph No. 13

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 13 and therefore denies the same.

Answer to Paragraph No. 14

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 14 and therefore denies the same.

Answer to Paragraph No. 15

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 15 and therefore denies the same.

Answer to Paragraph No. 16

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 16 and therefore denies the same.

Answer to Paragraph No. 17

Defendant Van Ness admits that United States Patent No. 8,286,589 shows on its face that it issued on October 16, 2012 and identifies Steven Tsengas as the inventor. Defendant Van Ness admits that a copy of U.S. Patent No. 8,286,589 is attached to the Complaint as Exhibit 1. Defendant Van Ness denies the remaining allegations of Paragraph No. 17.

Answer to Paragraph No. 18

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 18 and therefore denies the same.

Answer to Paragraph No. 19

Defendant Van Ness denies the allegations of Paragraph 19.

Answer to Paragraph No. 20

Defendant Van Ness denies the allegations of Paragraph 20.

Answer to Paragraph No. 21

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 21 and therefore denies the same.

Answer to Paragraph No. 22

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 22 and therefore denies the same.

Answer to Paragraph No. 23

Defendant Van Ness denies the allegations of Paragraph 23.

Answer to Paragraph No. 24

Defendant Van Ness admits that it sells pet bowls. Defendant Van Ness denies the remaining allegations of Paragraph 24.

Answer to Paragraph No. 25

Defendant Van Ness denies the allegations of Paragraph 25.

Answer to Paragraph No. 26

Defendant Van Ness admits that United States Patent No. 8,973,529 shows on its face that it issued on March 10, 2015 and identifies Steven Tsengas as the inventor. Defendant Van

Ness admits that a copy of U.S. Patent No. 8,973,529 was attached to the Complaint as Exhibit 2. Defendant Van Ness denies the remaining allegations of Paragraph 26.

Answer to Paragraph No. 27

Defendant Van Ness is without sufficient knowledge or information about the allegations of Paragraph No. 27 and therefore denies the same.

Answer to Paragraph No. 28

Defendant Van Ness denies the allegations of Paragraph 28.

Answer to Paragraph No. 29

Defendant Van Ness denies the allegations of Paragraph 29.

Answer to Paragraph No. 30

Defendant Van Ness denies the allegations of Paragraph 30.

Answer to Paragraph No. 31

Defendant Van Ness denies the allegations of Paragraph 31.

Answer to Paragraph No. 32

Defendant Van Ness denies the allegations of Paragraph 32.

Answer to Paragraph No. 33

Defendant Van Ness denies the allegations of Paragraph 33.

Answer to Paragraph No. 34

Defendant Van Ness denies the allegations of Paragraph 34.

ANSWERS TO CLAIM NO. 1

Answer to Paragraph No. 35

Defendant Van Ness repeats and reavers each of its answers, whether written above or below, as if each is fully re-written herein.

Answer to Paragraph No. 36

Defendant Van Ness denies the allegations of Paragraph No. 36.

Answer to Paragraph No. 37

Defendant Van Ness denies the allegations of Paragraph No. 37.

Answer to Paragraph No. 38

Defendant Van Ness denies the allegations of Paragraph No. 38. The bowl of Exhibit 4 was sold by defendant Van Ness prior to the issue date of the ‘589 patent.

Answer to Paragraph No. 39

Defendant Van Ness denies the allegations of Paragraph No. 39.

Answer to Paragraph No. 40

Defendant Van Ness denies the allegations of Paragraph No. 40.

Answer to Paragraph No. 41

Defendant Van Ness denies the allegations of Paragraph No. 41.

Answer to Paragraph No. 42

Defendant Van Ness denies the allegations of Paragraph No. 42.

Answer to Paragraph No. 43

Defendant Van Ness denies the allegations of Paragraph No. 43.

ANSWERS TO CLAIM NO. 2

Answer to Paragraph No. 44

Defendant Van Ness repeats and reavers each of its answers, whether written above or below, as if each is fully re-written herein.

Answer to Paragraph No. 45

Defendant Van Ness denies the allegations of Paragraph No. 45.

Answer to Paragraph No. 46

Defendant Van Ness denies the allegations of Paragraph No. 46.

Answer to Paragraph No. 47

Defendant Van Ness denies the allegations of Paragraph No. 47.

Answer to Paragraph No. 48

Defendant Van Ness denies the allegations of Paragraph No. 48.

Answer to Paragraph No. 49

Defendant Van Ness denies the allegations of Paragraph No. 49.

Answer to Paragraph No. 50

Defendant Van Ness denies the allegations of Paragraph No. 50.

Answer to Paragraph No. 51

Defendant Van Ness denies the allegations of Paragraph No. 51.

VAN NESS' AFFIRMATIVE DEFENSES

Van Ness asserts the following affirmative defenses to OurPet's claims:

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

2. Defendant Van Ness does not infringe any valid claim of the '589 patent.

3. Defendant Van Ness does not infringe any valid claim of the '529 patent.

4. The '589 patent is invalid for failure to meet one or more of the conditions of patentability set forth in 35 U.S. C., including at least §§ 101, 102, 103, and 112.

5. The '529 patent is invalid for failure to meet one or more of the conditions of patentability set for the in 35 U.S. C., including at least §§ 101, 102, 103, and 112.

6. The '529 patent is not entitled to claim priority on any prior application.

7. OurPet's '529 patent has failed to comply with 37 C.F.R. 1.78.

8. Any defenses that are set forth in 35 U.S.C. § 282 that are presently unknown to Van Ness but which, when ascertained, Van Ness prays for leave to assert.

DEMAND FOR JURY TRIAL

Van Ness demands a trial by jury as to all issues so triable.

WHEREFORE, Van Ness denies that OurPet's is entitled to any of the relief prayed for in the Complaint and prays that the Court:

1) Dismiss OurPet's Complaint with prejudice;

2) Deny all relief requested by OurPet's;

3) Hold that this action is exceptional under 35 U.S. C. § 285 and award Van Ness its attorneys' fees and costs in defending this action, and

4) Grant such other further relief as it may deem just.

Dated: December 9, 2015

Respectfully submitted,

By: /s/Thomas A. O'Rourke
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Attorney for Defendant
Van Ness Plastic Molding Co., Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing Answer was filed electronically this 9th day of December 2015. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

/s/ Thomas A. O'Rourke
Attorney for Plaintiffs